IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 3873 of 2006
Date of decision : 31.10.2006.

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Parties Name

Om Parkash

..... Appellant

vs.

Maya Devi and others

..... Respondents

Coram: Hon'ble Mr. Justice S.N. Aggarwal

Present: Sh. Aman Chaudhary, Advocate
for the appellant.

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S.N. Aggarwal, J.

Om Parkash-appellant had filed a civil suit for declaration that he was the owner in possession of the agricultural land measuring 10 Kanals 9 Marlas comprised in Khewat No. 1031, Khata No.1224, Rect. No. 130, Killa No. 21 (7-19), Rect. No. 147, Killa No. 1 (2-10) situated in the revenue limits of village Safidon. The right was asserted by the appellant that he had made the payment of Rs.3,000/- to Ram Kishan and of Rs.2,000/- to Giani in lieu of which they had surrendered their rights in the suit property in favour of the appellant vide Bahi writing dated 2.2.1977.

The said suit was contested by the respondents. The said

Bahi writing was alleged to be forged and fabricated document.

Issues were framed. The parties led the evidence. The learned trial Court dismissed the suit filed by the appellant vide judgment and decree dated 14.11.2002. The appellant filed an appeal. The learned Lower Appellate Court upheld the findings of fact recorded by the learned trial court and dismissed the appeal vide judgment and decree dated 6.9.2006.

Hence, the present appeal.

The submission of the learned counsel for the appellant was that it was a family settlement by which the suit land had come to the share of the appellant. Hence, it was prayed that the impugned judgments be set aside.

This submission has been considered. Even according to the case of the appellant, he had made the payment of Rs. 3,000/- to Ram Kishan and of Rs.2,000/- to Giani and then they had surrendered their rights in favour of the appellant. The appellant claims ownership in the suit property on the basis of money consideration. Therefore, it amounts to sale and not to family settlement.

It was further submitted by the learned counsel for the appellant that the Bahi writing amounted to sale deed as per the custom prevailing in the village. Therefore, the Bahi writing may be considered as the valid sale deed.

However, this submission has no force at all. The settled law i.e. the statutory, as well as, the judge made law, lays down that any sale of immovable property exceeding the value of Rs.100/- needs registration and Bahi writing set up by the appellant is not a

registered document.

Moreover, both the Courts below have held that the appellant has failed to prove his legal right in the suit property. This Court finds no ground to disturb the concurrent findings of fact recorded by the Courts below.

No substantial question of law arises.

No merit. Dismissed.

(S.N.Aggarwal)
Judge

31.10.2006.
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